tenary of Story's treatise, to salute that work as the beginning of a new era in the treatment of conflict of laws. It is to be regretted that the present volume does not contain Professor Lorenzen's essays on the French and German conflict of laws,[3] which would no doubt have extended the length of the book unduly unless other sacrifices were made. It is also to be regretted that the volume does not include a short piece published in 1941 on unification between Latin America and the United States in the rules of private international law relating to commercial contracts.[4] That essay, though brief and not fully documented, is a suggestive study in the possibility of securing greater harmony between conflicting systems of conflict of laws by piercing the crust of absolute rules to reach the core of objectives.

While a collection of essays lacks something of the coherence of a systematic treatise, it has one distinctive merit. It constitutes a kind of intellectual autobiography. It would be surprising if a mind as searching as Professor Lorenzen's had failed to take new ground as reflection mounted. Such a movement is best revealed in his essays on the renvoi and the theory of qualifications. Starting out with a rather stiff disapproval of the renvoi and a rather staid insistence that qualification or characterization must be made according to the law of the forum, he shifted to a more qualified position in both these fields. This is not the place for a discussion of these subtleties, however rare it is for a writer on the conflict of laws to resist them. It may perhaps suffice to say that the later position adopted by Professor Lorenzen is one in which common sense is not displaced by the momentum of abstract logic, as is the besetting danger when one turns to these subjects.

This work will continue to leave its mark on the minds of those who are called upon to deal with one of the most elusive and at the same time fundamental areas of the law. Like all important works in the realm of ideas, it represents not a final position but a marker on the road to the accommodation of views. Even those who do not agree with all of Professor Lorenzen's formulations would undoubtedly accept this estimate. For, to change the figure, in the creation of pearls in the life of ideas, it falls to the lot of the same scholar to be now the bivalve, now the grains of sand.

PAUL A. FREUND*

Real Covenants and Other Interests Which "Run with Land". By Charles E. Clark Chicago: Callaghan & Co., 1947. Second edition. Pp. lv, 310.

In reviewing the first edition of Clark on *Real Covenants and Other Interests Which "Run with Land"* for the readers of the *Harvard Law Review*, Professor Chafee, after predicting that the monograph would be of great value to practitioners and law teachers, emphasized the confusion in the law which Judge Clark's monograph had revealed and concluded with the suggestion that reform would not be possible until a statute agreeable to a considerable number of legal thinkers was drafted. He proposed

[3] 36 Yale L.J. 731 (1927); 37 Yale L.J. 849 (1928); 38 Yale L.J. 165 (1928); 39 Yale L.J. 804 (1930).

[4] Uniformity between Latin America and the United States in the Rules of Private International Law Relating to Commercial Contracts, 15 Tulane L. Rev. 165 (1941).

* Professor of Law, Harvard University.

the American Law Institute as the agency most likely to solve the difficulties which Judge Clark had so ably brought to light.[1]

The second edition of Judge Clark's monograph, which has now become a classic, demonstrates that confusion, if not chaos, continues to dominate the American law of covenants. The text of the first edition has been reprinted with few changes for, as Judge Clark reports, "thoughtful reconsideration .... afforded conviction that no changes of substance should be made in those conclusions."[2] In addition to the 1929 text, the second edition contains a seventy-five page appendix entitled "Exceptions to the Restatement of the Law of Real Covenants." This, which is largely a reprint of articles by Judge Clark and by Mr. Henry Upson Sims which originally appeared in recent volumes of the *Yale Law Journal* and the *Cornell Law Quarterly*, is a vigorous and spirited, if not heated, attack upon the American Law Institute's *Restatement of the Law of Covenants* and its Reporter, Professor Rundell. Whether one agrees with Judge Clark or with Professor Rundell as to what are the rules which the American courts have developed, it must be evident that, in this instance, the attempt to restate the law has not yet served to clarify it. The failure of stare decisis, even though the cases have been subjected to the searching analysis of the American Law Institute, to afford a reasonably clear set of rules indicates, as Professor Chafee suggested in 1929, that comprehensive legislation is essential. In 1941, Judge Clark made a start by proposing legislation to limit the duration of covenants and related interests to thirty years.[3] In the second edition of *Covenants* he has continued his efforts toward this goal by the addition of a new chapter entitled "Legislative Restriction of Running Interests." None of the drafts thus far formulated covers the entire field of covenants and hence the need for a comprehensive statute to preserve the advantages and to avoid the defects of the common law remains unsatisfied. So long as this continues, many programs for the development of land will either be blocked or seriously impeded by antiquated restrictions or by doubt and uncertainty as to the rules of law which are applicable. It is to be hoped, therefore, that agencies which are both influential and enlightened will undertake the task of drafting a model comprehensive code of the law of covenants and related interests in land.

SHELDON TEFFT*

Right To Fly, The. By John C. Cooper. New York: Henry Holt & Co., 1947. Pp. x, 380. $5.00.

The principal theme of Mr. Cooper's book is that air power is the sum of military and civil aviation, and not military force alone. This seems to be a simple enough concept, and it would be surprising if anyone could be found to deny it. We can be sure that a true-or-false test on this issue would produce an almost unanimous answer of "true" from the militarist, the statesman, and the ordinary citizen. The difficulty is that too many of those in authority act as though it were not true. Mr. Cooper has done a real service in developing this point, since the future well-being of the world may depend upon a course of action that recognizes the inseparability of civil and military air power.

[1] 43 Harv. L. Rev. 334 (1929). [2] Preface.

[3] Clark, Limiting Land Restrictions, 27 A.B.A.J. 737 (1941).

* Professor of Law, University of Chicago.